IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No. 584 of 1998

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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VAFIYUDIN PYARESAHEB SAIED - Applicant(s)
Versus
STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :

MR SHAKEEL A QURESHI for Applicant(s) : 1,
MR DIPEN DESAI, APP for Respondent(s) : 1,
MR SK BUKHARI for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 18/10/2007

ORAL JUDGMENT

The petitioner is a Muslim husband who has challenged the order dated 30th December 1995 passed by the learned JMFC, Jambusar as upheld by the order

dated 9.6.98 passed by the Additional Sessions Judge, Bharuch. In essence, the impugned orders required the petitioner to pay a sum of Rs.1,38,600/- towards maintenance for his wife, Rs.1650 towards Iddat amount and Rs.50,000/- for the residence of his wife.

2. At the outset, it may be noted that the petition was filed primarily to seek installments for payment of the said amount. On 14.7.98, the learned single Judge of this Court recorded the statement made on behalf of the petitioner that the petitioner shall deposit Rs.25,000/- within a period of 15 days from the date of the order. Upon such a statement, the Court issued notice and granted stay against the execution of the orders of the Courts below. Later on 4.8.98, the learned Judge while admitting the matter confirmed the stay on the condition that the petitioner continues to pay a sum of Rs.2500/- to the wife every month regularly. The Court simultaneously permitted the wife to withdraw Rs.25,000/- deposited by the petitioner. In the said order, it was made clear that in the event the petitioner fails to pay the maintenance every month as directed, the petition shall stand dismissed.

3. This petition has been placed before me for final hearing. Since the sole prayer of the petitioner was for being granted installments to pay up the entire amount, his prayer stands allowed by virtue of the orders noted herein-above. Learned advocates appearing for the parties, however, are not

in a position to state whether the petitioner did abide by the condition of depositing Rs.2500/- every month. If he has done, the entire arrears would have by now been paid over. If there is any default in fulfilling the condition, as provided for by the order of this Court, even otherwise, the petition would stand dismissed.

4. In the result, the petition is disposed of by clarifying that in case the petitioner has not paid up the entire amount, it will be open for the wife to execute the orders for recovery of the arrears if any. With these directions, the petition is disposed of. Rule is discharged. Interim relief is vacated.

(Akil Kureshi, J.)

(vjn)